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FROM THE AMBASSADOR

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SUBJECT: A Troubled Coalition, the Reform Process, and U.S. Policy

REF:

- (A) Nairobi 407
- (B) Nairobi 663
- (C) Nairobi 706
- (D) Nairobi 710
- (E) Nairobi 643
- (F) State 34124

Classified by Amb. Michael E. Ranneberger for reasons 1.4 (b) and (d)

¶1. (C) Summary. Following a honeymoon period during its first six months in office, the coalition government emerged as an embattled marriage early this year. Disagreements between the two principal coalition government partners, President Kibaki's Party of National Unity (PNU) and Prime Minister Odinga's Orange Democratic Movement (ODM), are over power-sharing issues at least as much as over implementation of the reform agenda. Political maneuvering focused particularly on succession to Kibaki and the 2012 elections complicate dynamics within the coalition. While Kibaki faces challenges in maintaining unity within the PNU, he has an astute team of advisors and is not running for office in 2012. This gives him an advantage in dealing with Odinga. Odinga got off to a good start, but his failure to come to grips with corruption and the incompetence of his immediate staff, to enforce discipline within his own ODM ranks, and to gain control of key portfolios has weakened his position vis-a-vis Kibaki. As a result, Odinga's flexibility to reach practical compromise with Kibaki is increasingly constrained - at the same time that Kibaki may believe he can increasingly afford to ignore Odinga.

¶2. (C) While Kibaki, Odinga, and most of those in the coalition government are to some extent part of the vested interests, Kibaki and Odinga demonstrated during the crisis last year that they are, above all, pragmatic politicians who will compromise under pressure. Growing domestic pressure to implement the reform agenda, backed by heightened international pressure, and continued strong engagement of Kofi Annan offer the best prospect for persuading the coalition partner to carry out meaningful reforms in a timely manner. The window to achieve this is probably over the next twelve months; after that the presidential race will dominate. President Obama's recent comments on Kenya and Secretary Clinton's letter to Kibaki and Odinga are well-timed to influence the two leaders constructively. End summary.

¶3. (C) This message discusses the troubled state of the coalition government and efforts to propel implementation of the reform agenda. Ref A in late February delineated our overall approach and highlighted the role the U.S. is playing, including through close coordination with Kofi Annan; through intensive engagement with civil society, religious groups, the private sector, and the media; through frank discussions with coalition leaders; and through vigorous public diplomacy. The recent remarks made by President Obama on Kenya (Ref B) and the Secretary's letter to President Kibaki and Prime Minister Odinga are very timely in underscoring the importance the U.S. attaches to the

reform agenda. As expected, as pressure mounts on the government to carry out the reform agenda, the vested interests (which comprise most of the government) are resisting. At the same time, they are behaving in a somewhat erratic manner that reflects the increasing pressure they are under. Kibaki and Odinga - and many others in the political elite -- have survived because they are first and foremost practical politicians. They demonstrated this when they compromised last year in response to domestic and international pressure, and I believe that continued pressure will result in at least some limited steps on reform. Simply maintaining the status quo is not an option, since Kenyans generally agree this would lead, perhaps even before the 2012 elections, to a crisis more severe than that experienced last year

¶4. (C) After the cabinet took office in May last year, the coalition government experienced a six-month honeymoon. Kibaki and Odinga both told me repeatedly that they had a good working relationship and were talking regularly, and the coalition government took initial steps to launch the reform agenda (see ref A and previous). Following the December holidays, however, the tough choices confronting the coalition government emerged into sharp relief, and the honeymoon was clearly over. In fact, the coalition went almost directly from the honeymoon into a bitterly embattled marriage, complete with the salacious airing of dirty laundry in public. The media, ever eager for headlines, has perhaps exacerbated the negative atmosphere by running almost daily stories on rifts within the coalition, often reporting that the coalition was about to collapse.

Coalition Politics

¶5. (C) The rifts in the coalition are real; they are as much about
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power-sharing arrangements between the two partners as they are about disagreement over the pace and scope of the reform agenda. The legislation creating the new office of Prime Minister did not clearly specify the relationship between the President, Vice President, and Prime Minister; for example, who is second in the line of protocol - the VP or PM - is still a bone of contention. The distribution of ministerial portfolios was problematic, as the President retained direct authority over the police/internal security, military/defense, prosecutors and judges. Kibaki and those around him have not fully supported Odinga's authority as Prime Minister 'to supervise and coordinate the functions of government.' Early on Odinga moved assertively and rapidly - with Kibaki's tacit approval - to stake out his interpretation of his authority, focusing largely on influencing economic and social policy. But, Odinga is severely handicapped, and acknowledges it, by the fact that he has no real authority to compel action from the PNU's cabinet ministers. Over time and in the absence of clear guidelines, Kibaki has moved steadily to reclaim and reassert his presidential prerogatives; for example, almost unilaterally appointing and firing civil service, parastatal, and judicial officials. Now even the facade of cooperation is crumbling. Cabinet meetings are not always held as scheduled, and deliberations are often inconclusive. One glaring example of Odinga's lack of authority is that he formally accepted the U.S. offer of FBI assistance to investigate the murders of the human rights activists last month, but we subsequently received a letter from the Foreign Minister, a PNU minister, formally rejecting the offer.

¶6. (C) Odinga has weakened his own authority and effectiveness by surrounding himself with an incompetent and divided core team in the prime minister's office. This has contributed greatly to his inability to work effectively to build his own authority within the coalition government. For whatever reason, and despite urging from us and many others to do so, he has refused to shake up his team and remains ill-served by them. As a result, the positions he takes publicly and privately are inconsistent, erratic, and often amateurish. Kibaki, on the other hand, is surrounded by an astute political team and thus far has run circles around Odinga. Odinga has also lost considerable support throughout the country because of the perception (and reality) that he has not energetically pursued the reform agenda which he advocated when he ran for President.

¶7. (C) Jockeying for political power within each of the coalition

partners also greatly complicates the workings of the coalition government. The battle within Kibaki's inner circle and within the PNU (an alliance of parties and interests formed to contest the 2007 elections) to succeed him (and be the 2012 presidential candidate) has been underway for months. The resignation of Justice Minister Martha Karua (ref C), the leader of the NARC-Kenya party (part of the PNU), was as much about her presidential ambitions as it was about lack of progress on reforms. By leaving the government, Karua is now free to present herself as a reformist candidate. Deputy Prime Minister and Finance Minister Uhuru Kenyatta, a presidential aspirant, is reportedly trying to forge an alliance that would unite two of the largest (and up to now rival) ethnic groups: his Kikuyu of Central Province and the Rift Valley Kalenjin. The two communities fought bitterly in the post-election violence, but a possible alliance is driven by political expediency above all else. His apparent ally in this attempt -- William Ruto, a prominent, very ambitious Kalenjin leader and Odinga's Minister of Agriculture, is in close touch with Kenyatta and Kibaki. While there are various factors which may well mitigate against a successful alliance, the possible 'accommodation' between Kenyatta and Ruto is widely discussed, although Ruto remains officially supportive of the ODM and Odinga. (One scenario being mooted is for Kenyatta and Ruto to hatch a 'vote of no confidence in the Parliament,' with a simultaneous move to replace Odinga with Ruto as head of the ODM parliamentary leadership. Since the constitutional amendment creating the office of PM states that the leader of the parliamentary opposition will be the PM, such a move would make Ruto PM. We do not believe that Kenyatta and Ruto can muster the necessary votes, but the fact that this is being seriously talked about is evident from a paper we obtained which was prepared for a PNU meeting following the collapse of the Kilaguni talks, ref D.)

¶8. (C) Like the PNU, the ODM is a loose alliance of many personal and political interests, formed primarily to contest the 2007 election. As ODM has started to fracture - with some even colluding with PNU elements against Odinga - Odinga faces two challenges: dealing with a coalition partner which pays only lip service to his authority and dealing with powerful rivals (i.e., Ruto) within his own ODM political coalition.

The Reform Agenda

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¶9. (C) On balance, these considerations of power outweigh differences over the reform agenda. Although Odinga has had a justly deserved reputation as a reformer based on his courageous career as an opposition leader, his ability and will to put into practice what he has preached is only now being thoroughly tested in government. In one sense, Odinga is part of the vested interests that have run Kenya since independence (he is enmeshed in a network of people who have long been involved in shady dealings). In another sense, however, he is a reformer in demanding democratic governance, and respect for human rights and the rule of law. It is telling that in his address to the nation last month (ref E), Odinga stated that 'the coalition is more about continuity than about change,' and barely mentioned corruption.

¶10. (C) Kibaki and his team are willing to carry out what I would describe as the minimum reform agenda: minimalist constitutional revision; establishment of a new electoral commission; the establishment of a local tribunal, which they believe they can influence, to hold accountable those involved in post-election violence; and the setting up of the Truth, Justice, and Reconciliation Commission, among other steps. Odinga supports these steps, but also wants to carry out more fundamental reforms, particularly through reform of the judiciary and the police - the two institutions that lie at the heart of the culture of impunity. Odinga is also probably willing to take steps to shake up parastatals to make them more transparent and accountable. Kibaki, on the other hand, has little incentive to undertake these reforms. Both the judiciary and police report to him, and in the seven years that he has been President, Kibaki has appointed people to head these institutions who are beholden to him. Where Kibaki and Odinga may implicitly share a similar perspective is in not wanting to take steps which could unravel the vast network of corruption, where their interests and those of their

families and associates might be compromised. In that regard, each side probably has a lot of incriminating information to hold over the heads of the other.

¶11. (C) After taking the initial steps to launch the reform agenda, during the coalition's honeymoon period, this year opened with the coalition faced with domestic and international pressure to move ahead with more fundamental reforms to tackle the culture of impunity. This coincided with the power-sharing machinations noted above. Hence, the public and private squabbles we are seeing. All of this has caused the Kenyan public to become increasingly jaundiced about the coalition.

¶12. (C) Three months of relative disarray were highlighted in the abortive coalition consultations at Kilaguni (ref D) and created a sense of crisis that the coalition was about to implode. Last week Kofi Annan again stepped in to help keep the coalition on track. On April 12 the media prominently reported on his intervention. Annan called Kibaki and Odinga and urged them to work out their differences. He specifically proposed that each side designate two individuals to work out an agreed agenda for consultations between the two leaders. As a result, the rhetoric coming from Kibaki and Odinga has noticeably cooled down. (Following the collapse of the Kilaguni talks, Odinga called Kibaki an amateur leader; Kibaki responded that he would not lower himself to name-calling, but declared "I'm in charge.") Following Annan's intervention, Odinga was quoted on April 12 as stating: "All is not lost. I think that here is still a chance to get things going." He said that, at Annan's urging, plans were being developed for Kibaki and Odinga to meet. Odinga said that he was confident that problems bedevilling the coalition government would be sorted out. Annan's decisive intervention took place in the context of growing pressure coming from civil society and religious groups on Kibaki and Odinga to work out their differences and move ahead with reforms. During a conversation with Annan on April 14, he confirmed to me that he had stepped in to help facilitate a meeting, as per the above. On April 10 I gave a joint press conference with the German Ambassador (who played an important role last year in helping resolve the crisis). We urged Kibaki and Odinga to work together and emphasize the need to implement the reform agenda.

¶13. (C) I have requested meetings with Kibaki and Odinga to deliver the letter from Secretary Clinton (ref F). Given the context reported in this message, that letter is very much needed and well-timed to influence the two leaders. In the lead-up to the AGOA forum here in August, we should keep the pressure on. We should use the policy levers at our disposal to persuade Kibaki and Odinga that they need to make the practical compromises necessary to restore the coalition partnership and to move forward with the reform agenda.

¶14. (C) We knew that implementation of the reform agenda would be a difficult process, because the reforms challenge vested interests and the culture of impunity. With the right combination of encouragement and pressure - domestically from civil society, religious groups, the private sector, and the media; and internationally from Kofi Annan and major partners, particularly the U.S., there is a reasonable

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possibility of achieving substantial progress on reforms. We are focusing on: significant rather than minimalist constitutional reform; development of a truly independent electoral commission; bringing about accountability for post-election violence either through creation of the Special Tribunal or through Annan's turning over the list of suspects to the International Criminal Court; institutional reforms to increase transparency and accountability; and, though much more difficult, bringing about judicial and police reform. Continuing efforts to promote reconciliation and to encourage and facilitate the emergence of new youth leadership (septel) will support the reform process and will, over time, change ethnic-based politics and winner-take-all attitudes that have been at the heart of Kenya's problems.

RANNEBERGER.